



10-27-11

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PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

RECEIVED

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

NOV 04 2011

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 5985546

Application Number: 09/085,271

Issue Date: 11/16/1999

Filing Date: 05/26/1998

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_ 11/03/2011 MBANGURA 00000001 5985546  
original filing date \_\_\_\_\_ 01 FC:1599 5055.00

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Oct. 25 / 2011  
Date

William John Martin  
Signature

William John Martin

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

USPTO ACCOUNTING  
DIVISION  
2011 NOV - 1 PM 2:19

The PTO did not receive the following listed item(s) credit card

## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ 565	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ 1425	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ 2365	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 4,355

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ \_\_\_\_\_

## 5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ \_\_\_\_\_☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_☒ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

**7. OVERPAYMENT**

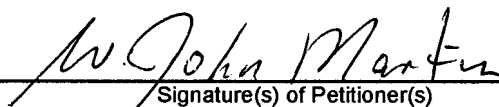
As to any overpayment made, please

☐ Credit to Deposit Account No. \_\_\_\_\_**OR**☐ Send refund check**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

**8. SHOWING**

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

**9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.**  
\_\_\_\_\_  
Signature(s) of Petitioner(s)

10/21/2011

\_\_\_\_\_  
Date

William John Martin

\_\_\_\_\_  
Typed or printed name(s)\_\_\_\_\_  
Registration Number, if applicable

1634 Spruce Street

\_\_\_\_\_  
Address

626-616-2868

\_\_\_\_\_  
Telephone Number

South Pasadena CA 91030

\_\_\_\_\_  
Address**ENCLOSURES:**

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other: \_\_\_\_\_

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

*W John Martin*  
Signature

10-25-2011  
Date

William John Martin

Type or printed name

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

*Please refer to attached statement. wjm*

(Please attach additional sheets if additional space is needed)

Statement in Support of Unavoidable Delay in Submitting Patent Maintenance Fee- W. John Martin

The patent in question was filed on my behalf by Mr. Charles Berkman Esq. of Lyon & Lyon. I came to work with Mr. Berkman under a rather informal arrangement, which was established as follows: Mr. Leslie Misrock Esq (now deceased) of Pennie and Edmonds, a major New York patent firm, asked Mr. Richard Warburg Esq, a senior partner in Lyon & Lyon, to assist me with the patenting of my research. When I explained to Mr. Warburg that I had very limited financial resources, he kindly arranged for me to receive essentially free patent-related legal services from Mr. Berkman, a junior lawyer who had recently joined their firm. Mr. Berkman was successful in securing the patent, which was issued on 11/16/1999.

Mr. Berkman left Lyon & Lyon in November 2000 and we agreed that the patent management would remain with Lyon & Lyon. I had been in Australia for much of 2000 because of my mother's deteriorating health and for the next several years had virtually no meaningful contact with Lyon & Lyon. Indeed, I only later heard that the corporation was dissolved on August 30 of 2002. The firm subsequently applied for bankruptcy on January 6, 2003. (I confirmed these dates by calling both Mr. Robert W. Dickerson Esq., who previously worked at Lyon & Lyon, telephone number 310-772-8317 and David A. Gill Esq, the Bankruptcy Trustee telephone 310-277-0077). I was never provided any of the files or correspondence relating to work performed on my behalf at Lyon & Lyon and did not know about maintenance fees being due in 2003 or 2007.

I can honestly tell you that I have been in far better health this last month than anytime over the last 15 years. I feel that I am now able to proceed with laboratory research, some of which was disclosed in the patent application. I, therefore, called the patent office regarding the patent and was relieved to hear from Mr. Lee (571-272-6051) that the patent in question simply required a payment of \$2,110.00 to be extended beyond 11/16/2011. I happily sent the credit card authorization to pay the fee in a letter dated 9-27-2011 (copy attached), but received a Notice of Non-Acceptance of Patent Maintenance Fee, dated October 12, 2011 (copy attached). I conferred with Mr. Lee and he confirmed there was apparently some glitch in the initial computer readout on which he had concluded the patent was still active. He advised me of the need to Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent. I received the same advice from the Petition Office, along with an accounting of the fee now due, including a surcharge.

Had I been fully aware that the fees were due on the patent, I would have certainly avoided the need to petition for late payment. I would have also utilized the laboratory technique disclosed in the patent, which I have not done since mid-2002. Last week, I asked Dr. David Glaser, from whom I have been receiving regular medical care since 1997, to support my petition and to further attest that my delayed maintenance payments were unavoidable and understandable, for serious medical reasons. He has kindly provided me a supporting letter, which is attached. I would be pleased to elaborate on any aspect of this petition if necessary can be reached by phone at 626-616-2868.

Sincerely,

  
W. John Martin

Copy of Letter accompanying patent maintenance fee payment dated 9/27/2011

Notice of non-acceptance of patent maintenance fee payment dated 10/12/2011

Copy of letter from Dr. David Glaser, addressed to the Commissioner for Patents

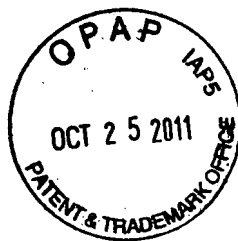
Credit card authorization payment for \$5055.00



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

DR. W JOHN MARTIN  
1634 SPRUCE STREET  
SOUTH PASADENA, CA 91030



October 12, 2011

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OFFICE OF PETITIONS

## NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

REGARDING PATENT NUMBER: 5985546

PAYMENT STATUS:

Payment Amount Received: \$ 2,110.00Payment Year 11.5 (e.g., 3.5, 7.5, 11.5)No charge was applied to your credit card account.PAYMENT RECEIPT DATE 09/27/2011  
(Mailroom Date Stamp)

## Your payment was not accepted for the following reason(s):

- ☐ 1. The maintenance fee for the above-identified patent was previously paid on \_\_\_\_\_.  
☐ Information regarding the previous payment is stated in item 8 below.
- ☒ 2. The patent expired on 11/16/2003. See "Patent Expiration" section below.
- ☐ 3. The fee was paid too early. See 37 CFR 1.366(b). Pursuant to 37 CFR 1.362(d), the payment window will open for the above-identified patent on \_\_\_\_\_.
- ☐ 4. Your payment was not sufficient to cover the maintenance fee and any required surcharge for the above-identified patent. An additional amount of \$ \_\_\_\_\_ is/was required.
- ☐ 5. The above-identified patent was reissued. In accordance with 37 CFR 1.366(d), the reissue patent number and reissue application number must be provided.
- ☐ 6. The payment did not include corresponding patent and application numbers, and was not specially accepted.
- ☐ 7. The above-identified patent is not subject to maintenance fees. No maintenance fees are due on utility patents filed before 12/11/80. No maintenance fees are due on design patents or on plant patents. See 37 CFR 1.362(a) and (b). (The "Resubmitting Maintenance Fee Payment" and "Patent Expiration" sections below do not apply.)
- ☐ 8. Other: \_\_\_\_\_.

## Resubmitting Maintenance Fee Payment

The six (6) month "grace period" for paying the maintenance fee for the above-identified patent begins on \_\_\_\_\_ and ends on \_\_\_\_\_. In addition to the maintenance fee of \$ \_\_\_\_\_, a resubmitted payment filed in the USPTO during the 6 month "grace period" is required to include a surcharge of \$ \_\_\_\_\_. (See "Note" at the bottom of this Notice.)

To avoid patent expiration, the maintenance fee plus any required surcharge must be resubmitted in a manner that rectifies all of the indicated reason(s) for payment non-acceptance and *must be filed on or before the date the 6 month "grace period" ends*. Send by facsimile to the Office of Finance, Maintenance Fee Branch at (571) 273-6500, or by mail to the following address: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450, to the attention of the individual who has signed below.

## Patent Expiration

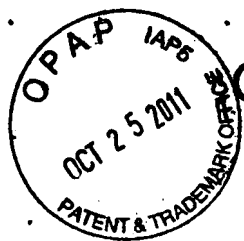
The date the six (6) month "grace period" ends becomes the expiration date of the above-identified patent if the required amount for paying the maintenance fee is not filed in the USPTO by that date. See 37 CFR 1.362(g). Expired patents may be reinstated if a petition as set forth in 37 CFR 1.378 is granted. If the above-identified patent has expired and reason number 5 or 6 above is the only reason indicated for payment non-acceptance, it is possible that the payment may be accepted if resubmitted with a petition as set forth in 37 CFR 1.377, rather than 37 CFR 1.378.

If you have any questions regarding this Notice, contact the Office of Finance, Maintenance Fee Branch at (571) 272-6500. Please ask for the individual who has signed below.

Michael Bangura (571) 272-6365  
Printed Name of USPTO Representative

  
Signature of USPTO Representative

NOTE: All USPTO fees (including patent maintenance fees) are subject to change. If you are making a payment, visit the [www.uspto.gov](http://www.uspto.gov) website or contact the Office of Finance to verify the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.



# Glaser Forensic Group RECEIVED

a medical corporation

The Encino Atrium  
16530 Ventura Boulevard, Suite 601  
Encino, California 91436  
(818) 382-9920 / Fax (818) 385-1155

NOV 04 2011

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Clinical and Forensic  
Psychiatry & Psychology  
[www.glaserforensic.com](http://www.glaserforensic.com)

DAVID N. GLASER, M.D.  
Board Certified  
Psychiatry & Neurology  
Forensic Psychiatry

October 25, 2011

Commissioner for  
Patents  
Mail Stop Petition  
P. O. Box 1450  
Alexandria, VA  
22313-1450

Dear Commissioner,

I have been providing regular medical care to Dr. W. John Martin since 1997. He has informed me of unavoidable delays in his paying patent maintenance fees and in other dealings with the US Patent Office. I can confirm that, for medical reasons, these delays are fully understandable and clearly symptomatic of the illness for which Dr. Martin is being treated. I, therefore, fully support Dr. Martin's petition to the Patent Office to accept the delayed payments for the fees, which he had unavoidably failed to pay because of medical reasons. This allowance may also encourage and facilitate Dr. Martin returning to a more productive lifestyle.

Sincerely,

David N. Glaser, M. D.  
DNG:mwv

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11/02/2011 12:25 626--403-9280

FEDEX OFFICE 0573

PAGE 01



**FedEx Office.**

FedEx Kinko's is now FedEx Office

## Fax Cover Sheet

Date 11/2/11

Number of pages \_\_\_\_\_ (including cover page)

To:

Name Mr Michael BANGURA

Company USPTO

Telephone \_\_\_\_\_

Fax 571-273-6500

From:

Name W. SOHN MARTIN

Company \_\_\_\_\_

Telephone 626 616 2865

Comments Dear Michael You indicated 5,065 as being due. I  
had previously calculated 5,055. I modified the form to read  
\$5065. Kind regards John



Fax - Local Send



Fax - Domestic Send



Fax - International Send

fedex.com 1.800.GoFedEx 1.800.463.3339

22701